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EXAMINER

O CONNOR, CARY E

ART UNIT	PAPER NUMBER
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3732

DATE MAILED: 01/11/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/752,189	Applicant(s) COTTRELL	
	Examiner Cary E. O'Connor	Art Unit 3732	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-63 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-17, 19-21, 25-50, 52-54 and 56-63 is/are rejected.
- 7) ☒ Claim(s) 18, 22-24, 51 and 55 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>1504</u> . | 6) <input type="checkbox"/> Other: ____ |

DETAILED ACTION

Claim Objections

Claims 18, 22-24, 51 and 55 are objected to under 37 CFR 1.75(c) as being in improper form because a multiple dependent claim may not depend on another multiple dependent claim. See MPEP § 608.01(n). Accordingly, the claims 18, 22-24, 51 and 55 have not been further treated on the merits.

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claim 63 is rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. The specification does not describe how the contour follows the Fibonacci Progression, i.e. 1 1 2 3 5 8..... This claim is not treated with regards to the prior art.

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 5, 6, 40 and 42 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 5 recites the limitation "said textured or otherwise prepared bone engaging surface" in lines 7-8. There is insufficient antecedent basis for this limitation in the claim.

Claim 6 recites the limitation "said textured or otherwise prepared bone engaging surface" in lines 7-8. There is insufficient antecedent basis for this limitation in the claim.

Claim 40 contradicts the claims from which it depends in that the previous claims state that the length of the outer surface of the body is longest in the lingual one third thereby making the coronal end extend at an angle that is not perpendicular to the longitudinal axis of the body.

Claim 42 contradicts the claims from which it depends in that the previous claims state that the length of the outer surface of the body is longest in the lingual one third. Claim 42 states that the body is intermediate in length in the generally lingual one third.

Claims 40 and 42 have not been treated with regards to the prior art because these inconsistencies rendered the claims impossible to evaluate.

Double Patenting

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double

patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claims 1, 3, 5, 7, 9/1, 9/3, 9/7, 10/1, 10/3, 10/5, 10/7, 11/1, 11/3, 11/5, 11/7, 12/9/1, 12/9/3, 12/9/5/7, 13/10/1, 13/10/3, 13/10/5, 13/10/7, 14/11/1, 14/11/3, 14/11/5, 14/11/7, 15/9/1, 15/9/3, 15/9/5, 15/9/7, 16/10/1, 16/10/3, 16/10/5, 16/10/7, 17/11/1, 17/11/3, 17/11/5, 17/11/7, 19/19/1, 19/3, 19/5, 20/7, 21/20/7, 25/1, 25/3, 25/5, 25/7, 26/1, 26/3, 26/5, 26/7, 28/1, 28/3, 28/5, 28/7, 33, 34, 36, 38, 41/34, 41/36, 41/38, 43/34, 43/36, 43/38, 44/34, 44/36, 44/38, 45/34, 45/36, 45/38, 46/34, 46/36, 46/38, 47/34, 46/36, 46/38, 47/44/34, 47/44/36, 47/44/38, 48/45/34, 48/45/36, 48/45/38, 49/46/34, 49/46/36, 49/46/38, 50/46/34, 50/46/36, 50/46/38 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1, 14, 18, 11, 2, 19, 3, 20, 4 and 12 of U.S. Patent No. 6,728,872. Although the conflicting claims are not identical, they are not patentably distinct from each other because the difference between the application claims and the patent claims lies in the fact that the patent claims include more elements and are thus much more specific. Thus the invention of the patent claims are in effect a "species" of the "generic" invention of the application claims. It has been held that the generic invention is "anticipated" by the "species". See *In re Goodman*, 29 USPQ2d 2010 (Fed. Cir. 1993). Since the application claims are anticipated by the patent claims, they are not patentably distinct from the patent claims.

Claims 2, 4, 8, 9/2, 9/4, 9/8, 10/2, 10/4, 10/6, 10/8, 11/2, 11/4, 11/6, 11/8, 12/9/2, 12/9/4, 12/9/6/8, 13/10/2, 13/10/4, 13/10/6, 13/10/8, 14/11/2, 14/11/4, 14/11/6, 14/11/8, 15/9/2, 15/9/4, 15/9/5, 15/9/8, 16/10/2, 16/10/4, 16/10/6, 16/10/8, 17/11/2, 17/11/4, 17/11/6, 17/11/8, 19/19/2, 19/4, 19/6, 20/8, 21/20/8, 25/2, 25/4, 25/6, 25/8, 26/2, 26/4, 26/6, 26/8, 28/2, 28/4, 28/6, 28/8, 35, 37, 39, 41/35, 41/37, 41/39, 43/35, 43/37, 43/39, 44/35, 44/37, 44/39, 45/35, 45/37, 45/39, 46/35, 46/37, 46/39, 47/35, 46/37, 46/39, 47/44/35, 47/44/37, 47/44/39, 48/45/35, 48/45/37, 48/45/39, 49/46/35, 49/46/37, 49/46/39, 50/46/35, 50/46/37, 50/46/39 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1, 14, 18, 11, 2, 19, 3, 20 and 4 of U.S. Patent No. 6,672,872 in view of Eliau (6,854,972). The patent does not claim that the coronal end is contoured such that when positioned within the jawbone the length may be greatest on the lingual side, equally greatest within the medial and distal one third, and shortest on the buccal side. Eliau shows a dental implant 10 comprising a generally cylindrical longitudinal body having an apical end, a coronal end and an outer surface. The body has a length defined between the ends on the outer surface and the coronal end is contoured such that when positioned within the jawbone the length may be greatest on the lingual side, equally greatest within the medial and distal one third, and shortest on the buccal side (see Figure 3 and column 3, lines 21-28) in order to improve the aesthetic appearance of the implant and prosthetic tooth. It would have been obvious to one of ordinary skill in the art to form the coronal end of the patent claims with the contour taught by Eliau, in order to improve the aesthetic appearance of the implant and prosthetic tooth.

Claims 1, 3, 5, 7, 9/1, 9/3, 9/7, 11/1, 11/3, 11/5, 11/7, 12/9/1, 12/9/3, 12/9/5/7, 13/10/2, 13/10/4, 13/10/6, 13/10/8, 14/11/1, 14/11/3, 14/11/5, 14/11/7, 15/9/2, 15/9/4, 15/9/5, 15/9/8, 16/10/2, 16/10/4, 16/10/6, 16/10/8, 17/11/2, 17/11/4, 17/11/6, 17/11/8, 19/19/2, 19/4, 19/6, 20/8, 21/20/8, 25/2, 25/4, 25/6, 25/8, 26/2, 26/4, 26/6, 26/8, 28/2, 28/4, 28/6, 28/8, 35, 37, 39, 41/35, 41/37, 41/39, 43/35, 43/37, 43/39, 44/35, 44/37, 44/39, 45/35, 45/37, 45/39, 46/35, 46/37, 46/39, 47/35, 46/37, 46/39, 47/44/35, 47/44/37, 47/44/39, 48/45/35, 48/45/37, 48/45/39, 49/46/35, 49/46/37, 49/46/39, 50/46/35, 50/46/37, 50/46/39 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1, 14, 19, 12, 2, 20-22, 9-12 of U.S. Patent No. 6,655,961. Although the conflicting claims are not identical, they are not patentably distinct from each other because the difference between the application claims and the patent claims lies in the fact that the patent claims include more elements and are thus much specific. Thus the invention of the patent claims are in effect a "species" of the "generic" invention of the application claims. It has been held that the generic invention is "anticipated" by the "species". See *In re Goodman*, 29 USPQ2d 2010 (Fed. Cir. 1993). Since the application claims are anticipated by the patent claims, they are not patentably distinct from the patent claims.

Claims 2, 4, 8, 9/2, 9/4, 9/8, 10/2, 10/4, 10/6, 10/8, 11/2, 11/4, 11/6, 11/8, 12/9/2, 12/9/4, 12/9/6/8, 13/10/2, 13/10/4, 13/10/6, 13/10/8, 14/11/2, 14/11/4, 14/11/6, 14/11/8, 15/9/2, 15/9/4, 15/9/5, 15/9/8, 16/10/2, 16/10/4, 16/10/6, 16/10/8, 17/11/2, 17/11/4, 17/11/6, 17/11/8, 19/19/2, 19/4, 19/6, 20/8, 21/20/8, 25/2, 25/4, 25/6, 25/8, 26/2, 26/4, 26/6, 26/8, 28/2, 28/4, 28/6, 28/8, 35, 37, 39, 41/35, 41/37, 41/39, 43/35, 43/37, 43/39,

44/35, 44/37, 44/39, 45/35, 45/37, 45/39, 46/35, 46/37, 46/39, 47/35, 46/37, 46/39, 47/44/35, 47/44/37, 47/44/39, 48/45/35, 48/45/37, 48/45/39, 49/46/35, 49/46/37, 49/46/39, 50/46/35, 50/46/37, 50/46/39 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1, 14, 19, 12, 2, 20-22, 9-12 of U.S. Patent No. 6,655,961 in view of Eliau (6,854,972). The patent does not claim that the coronal end is contoured such that when positioned within the jawbone the length may be greatest on the lingual side, equally greatest within the medial and distal one third, and shortest on the buccal side. Eliau shows a dental implant 10 comprising a generally cylindrical longitudinal body having an apical end, a coronal end and an outer surface. The body has a length defined between the ends on the outer surface and the coronal end is contoured such that when positioned within the jawbone the length may be greatest on the lingual side, equally greatest within the medial and distal one third, and shortest on the buccal side (see Figure 3 and column 3, lines 21-28) in order to improve the aesthetic appearance of the implant and prosthetic tooth. It would have been obvious to one of ordinary skill in the art to form the coronal end of the patent claims with the contour taught by Eliau, in order to improve the aesthetic appearance of the implant and prosthetic tooth.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent,

except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-11, 17, 20, 25-29, 31-39, 41, 44-46, 50, 53, 56-62 are rejected under 35 U.S.C. 102(e) as being anticipated by Elian (6,854,972). Elian shows a dental implant 10 comprising a generally cylindrical longitudinal body having an apical end, a coronal end and an outer surface. The body has a length defined between the ends on the outer surface and the coronal end is contoured such that when positioned within the jawbone the length may be greatest on the lingual side, equally greatest within the medial and distal one third, and shortest on the buccal side (see Figure 3 and column 3, lines 21-28). The implant also includes an abutment (column 7, lines 59-60). The coronal end has a textured or otherwise prepared bone engaging surface 8. As to claims 9, 10, 44, 45 and 59, the body includes grooves and ridges 20 around the diameter. As to claims 11, 17, 33, 46, 50 and 58, note the threads 24 around the diameter of a portion of the body. As to claims 26, 41, the contour has straight sections that together form a convex contour. As to claim 28, 60-62, note that the coronal end is textured (column 6, lines 5-13). As to claims 29, 31 and 34-39, note that the coronal end includes a polished collar (column 6, lines 13-22). As to claims 32 and 57, the body narrows apically, as shown in the figures. As to claim 56, the recitation that the coronal margin is adapted to engage an impression cap has not been given patentable weight because a recitation of the intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is

capable of performing the intended use, then it meets the claim. In a claim drawn to a process of making, the intended use must result in a manipulative difference as compared to the prior art. See *In re Casey*, 152 USPQ 235 (CCPA 1967) and *In re Otto*, 136 USPQ 458, 459 (CCPA 1963).

Claims 1, 3, 5, 7, 9/1, 9/3, 9/5, 9/7, 10/1, 10/3, 10/5, 10/7, 11/1, 11/3, 11/5, 11/7, 15/9/1, 15/9/3, 15/9/5, 15/9/7, 16/10/1, 16/10/3, 16/10/5, 16/10/7, 17/11/1, 17/11/3, 17/11/5, 17/11/7, 19/1, 19/3, 19/6, 20, 21, 26/1, 26/3, 26/5, 26/7, 26/1, 26/3, 26/5, 26/7, 28/1, 28/3, 28/5, 28/7, 29/1, 29/3, 29/5, 29/7, 30/1, 30/3, 30/5, 30/7, 31/1, 31/3, 31/5, 31/7, 34, 36, 38, 41/ 34, 41/36, 41/38, 44/34, 44/36, 44/38, 45/34, 45/36, 45/38, 52/34, 52/36, 52/38, 53/38, 54/52/38, 56/34, 56/36, 56/38, 57/34, 57/36, 57/38, 58/34, 58/36, 58/38, are rejected under 35 U.S.C. 102(e) as being anticipated by Abarno (2003/0031982). Abarno shows a dental implant comprising a generally cylindrical longitudinal body having an apical end 20, a coronal end 40 and an outer surface. The body has a length defined between the ends on the outer surface and the coronal end is contoured such that when positioned within the jawbone the length may be greatest on the lingual side (by virtue of sloping surface 48). As to claims 9/1, 3/1, 9/5, 9/7, 10/1, 10/3, 10/5, 10/7, 44/34, 44/36, 44/38, 45/34, 45/36, 45/38, note the grooves and ridges shown around at least a portion of the body (see Fig. 5). As to claims 11/1, 11/3, 11/5, 11/7, 17, 33, 46/34, 46/36, 46/38, 50/46/34, 50/46/36, 50/46/38 and 58, note the threads (paragraph 0049) around the diameter of a portion of the body and perpendicular to the long axis of the body. As to claims 15/9/1, 15/9/3, 15/9/5, 15/9/7, 16/10/1, 16/10/3, 16/10/5, 16/10/7, 17/11/1, 17/11/3, 17/11/5, 17/11/7, the grooves, ridges and threads

are shown to be perpendicular to the longitudinal axis of the body. As to claims 19/1, 19/3, 19/6, 20/7, 21/20/7, 52/34, 52/36, note the abutment 100 on the coronal end extending coronally with angulation. As to claims 20/8, 21/20/8, 53/38, 54/52/38, the abutment is not positively claimed so patentable weight cannot be given to the structure of the abutment. As to claims 26/1, 26/3, 26/5, 26/7, 41/ 34, 41/36, 41/38, the contour 42 has straight sections 46, 48 that together form a convex contour. As to claims 28/1, 28/3, 28/5, 28/7, note that the surface may be textured (see paragraph 0049). As to claims 29/1, 29/3, 29/5, 29/7, 31/1, 31/3, 31/5, 31/7, note the polished collar 66 (paragraph 0049. As to claims 57/34, 57/36, 57/38, note Figure 5, which shows the body widest at the coronal end, and narrowing to parallel surfaces apically. As to claim 56/34, 56/36, 56/38, the recitation that the coronal margin is adapted to engage an impression cap has not been given patentable weight because a recitation of the intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim. In a claim drawn to a process of making, the intended use must result in a manipulative difference as compared to the prior art. See *In re Casey*, 152 USPQ 235 (CCPA 1967) and *In re Otto*, 136 USPQ 458, 459 (CCPA 1963). As to claims 58/34, 58/36, 58/38, note the threads on the apical portion of the body.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 2, 4, 6, 8, 9/2, 9/4, 9/6, 9/8, 10/2, 10/4, 10/6, 10/8, 11/2, 11/4, 11/6, 11/8, 15/9/2, 15/9/4, 15/9/6, 15/9/8, 16/10/2, 16/10/4, 16/10/6, 16/10/8, 17/11/2, 17/11/4, 17/11/6, 17/11/8, 19/2, 19/4, 19/6, 20, 21, 26/2, 26/4, 26/6, 26/8, 26/2, 26/4, 26/6, 26/8, 28/2, 28/4, 28/6, 28/8, 29/2, 29/4, 29/6, 29/8, 30/2, 30/4, 30/6, 30/8, 31/2, 31/4, 31/6, 31/8, 35, 37, 39, 41/ 35, 41/37, 41/39, 44/35, 44/37, 44/39, 45/35, 45/37, 45/39, 52/35, 52/37, 53/39, 54/53/39, 56/35, 56/37, 56/39, 57/35, 57/37, 57/39, 58/35, 58/37, 58/39, are rejected under 35 U.S.C. 103(a) as being unpatentable over Abarno (2003/0031982) in view of Elan (6,854,972). Abarno does not disclose that the coronal end is contoured such that when positioned within the jawbone the length may be greatest on the lingual side, equally greatest within the medial and distal one third, and shortest on the buccal side. Elan shows a dental implant 10 comprising a generally cylindrical longitudinal body having an apical end, a coronal end and an outer surface. The body has a length defined between the ends on the outer surface and the coronal end is contoured such that when positioned within the jawbone the length may be greatest on the lingual side, equally greatest within the medial and distal one third, and shortest on the buccal side (see Figure 3 and column 3, lines 21-28) in order to improve the aesthetic appearance of the implant and prosthetic tooth. It would have been

obvious to one of ordinary skill in the art to form the coronal end of Abarno with the contour taught by Elian, in order to improve the aesthetic appearance of the implant and prosthetic tooth.

Specification

The abstract of the disclosure is objected to because on page 9, line 5, "matting" should be changed to --mating--. In the last line of the abstract "encourage" should be changed to --encouraged-- Correction is required. See MPEP § 608.01(b).

The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required:

The specification does not provide support for the machined or polished collar being not more than 2.0 mm (claims 29, 31).

The specification does not provide support for an etched collar of not more than 2.0 mm (claim 30).

The specification does not provide support for the coronal end having contoured such that when positioned within the jawbone the length may be greatest on the lingual side, equally greatest within the medial and distal one third, and shortest on the buccal side (claims 2, 4, 6, 35, 37, 39).

The specification does not provide support for the coronal contour being scalloped (claim 27).

The specification does not provide support for the coronal end having a straight profile, perpendicular to the long axis of the body (claim 40).

The specification does not provide support for the body being intermediate in length in the generally lingual one third (claim 42).

The specification does not provide support for a collar of extending 1.0 to 5.0 mm coronal to the textured or otherwise prepared bone engaging surface (claims 34-39).

Drawings

The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they include the following reference sign(s) not mentioned in the description: 57 (figure 6). A proposed drawing correction, corrected drawings, or amendment to the specification to add the reference sign(s) in the description, are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

Priority

Applicant has not complied with one or more conditions for receiving the benefit of an earlier filing date under 35 U.S.C. 120 as follows:


The second application must be an application for a patent for an invention which is also disclosed in the first application (the parent or provisional application); the disclosure of the invention in the parent application and in the second application must be sufficient to comply with the requirements of the first paragraph of 35 U.S.C. 112. See *Transco Products, Inc. v. Performance Contracting, Inc.*, 38 F.3d 551, 32 USPQ 2d 1077 (Fed. Cir. 1994).

An application in which the benefits of an earlier application are desired must contain an **updated (including patent number if issued)** specific reference to the prior application(s) in the first sentence of the specification or in an application data sheet (37 CFR 1.78(a)(2) and (a)(5)).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Cary E. O'Connor whose telephone number is 571-272-4715. The examiner can normally be reached on M-Th 7:00-3:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kevin Shaver can be reached on 571-272-4720. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


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